IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Nageshwar Singh & Anr. Versus State of Rajasthan & ors.

S.B. Criminal Misc. Petition No. 354/2005
against the order dated 22-11-2004 passed
by the Additional District & Sessions Judge,
Anoopgarh,district Sri Ganganagar, in Civil
Case No. 44/2004.

...

Date of Order: October 05, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. S.S. Dhillon, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Rakesh Arora, for non-petitioners No. 2 to 4.

BY THE COURT:

The order dated 22-11-2004 passed by the Additional District & Sessions Judge, Anoopgarh, district Sri Ganganagar (for short, "the trial Court" hereinafter) passed by Civil Original Suit No. 44/2004 has been impugned by the petitioners by way of the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter).

I have heard learned counsel for the parties. Carefully gone through the order impugned.

It is contended by the learned counsel for the

petitioners that a document, i.e. agreement to sell, alleged to have been forged by the non-petitioners No.2 to 4, for which a crime report was lodged by the petitioners being FIR No. 122 dated 2-7-2004 for the offences of forging a document and using it as a genuine one etc. A suit has been filed with regard to the very document agreement to sell in the Court of the Additional District Judge, Anoopgarh, being Civil Original Suit No.44/2004 and the document alleged to have been forged has been filed in the suit by the non-petitioners No. 2 to 4. The suit is for specific performance of contract/agreement. The police requested the learned District Judge for giving custody of the original document, i.e. agreement to sell, for the purpose of examination of signatures and handwriting of the petitioners by a Handwriting Expert through State Forensic Science Laboratory, Jaipur. The trial Court declined to return the document on the ground that the civil suit with regard to the very document is pending in the Court and the question as to whether the agreement to sell in question has been executed by the petitioners or not, can be gone into by the civil court and if the civil court comes to the conclusion that the document has been forged, it will be open for the civil court to file a complaint against the person(s) found to have forged the document, relying on a decision of this Court in Kailash Chandra Vs. State of Rajasthan, 1998 (1) R.Cr.D. 364 (Raj.).

On careful perusal of the order impugned, it appears that the document, for which the forgery has been alleged, has already been filed in the Court of the learned Additional District Judge in a civil original suit between the same parties and since the civil court is seized of the matter, it would not be appropriate to adjudicate upon the true character of that document by any agency other than the civil court. The impugned order passed by the Additional District Judge, declining to hand-over the original document to the police, cannot be said to be erroneous, warranting interference in the inherent jurisdiction, more particularly when the civil court is seized of the matter including the issue of alleged forging of the document.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs